IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

MISC.CIVIL APPLICATION NO. 366 OF 2006 (ARBITRATION)

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri Shantanu Khedkar, Advocate for the applicant.

CORAM : B.R. GAVAI, J.
13TH OCTOBER, 2006

By way of present application, the applicant seeks appointment of an arbitrator from the panel of arbitrators maintained by this Court.

The non-applicant had invited tenders for sale of plants and machineries, scrap lying in the mill on as and where basis. Since the applicant was interested to purchase the aforesaid property, he approached the non-applicant and also inspected the said plants, machineries and other articles. Accordingly, the applicant gave his offer and deposited an amount of rupees ten lakhs. Since the offer given by the applicant was the highest, the non-applicant informed the applicant that the decision of the non-applicant confirming the same will be communicated within a period of one week from 6th November, 2004. However, the non-applicant did not communicate the decision for the period of 9 and ½ months. The applicant thereafter

found that considerable property was stolen and, therefore, it withdrew its offer. The applicant, therefore, gave a notice dated 4th January, 2006 to the non-applicant to refund the amount of rupees ten lakhs or to appoint an arbitrator.

From the perusal of the agreement, the clause 29 of the agreement between the parties reads thus.

> *"In case of any dispute between the parties in respect of this tender, the same shall be referred to arbitrator sole who shall be Director, HPT, Nagpur and his decision will be final."*

It is thus clear that it has been agreed between the parties that the dispute if any between them be referred to the Arbitrator. However, in spite of notice, the non-applicant has failed to appoint an Arbitrator.

In that view of the matter, I am inclined to appoint Shri V.D. Deshmukh as sole Arbitrator to adjudicate the dispute between the parties.

The present MCA is allowed accordingly.

JUDGE

*rrg.